

**255 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH**

CRM-M-9672-2021

Date of Decision: 24.08.2022

KIKKAR SINGH @ SUKHDEV SINGH AND ORS.

...Petitioners

V/S

STATE OF PUNJAB AND ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Param Preet Singh Brar, Advocate
for the petitioners.

Mr. Gurdarshan Singh Sidhu,
Assistant AG Punjab.

Mr. Ramandeep Singh, Advocate
for respondent Nos. 2 to 4.

PANKAJ JAIN J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No.0045 dated 27.04.2020 registered under Sections 323/34 IPC and Section 3 (1) (x) of SC/ST Act 1989 at Police Station Sadar Faridkot and all other consequent proceedings arising therefrom, on the basis of compromise dated 20.02.2021 (Annexure P-2).

On 02.03.2021, the following order was passed:-

“By filing this petition, quashing of FIR No.0045 dated 27.04.2020 under Sections 323/34 IPC and Sections 3 (1)(x) of SC/ST Act, 1989 registered at P.S Sadar Faridkot and all other consequent proceedings arising therefrom has been sought on the basis of compromise.

Notice of motion.

Mr. Randeep Khaira, AAG, Punjab accepts notice on behalf of respondent No.1-State.

Parties may appear before concerned trial Court/Duty Magistrate on 07.04.2021 or on any other date convenient to the said Court

and get their statements recorded with regard to the compromise. The original compromise shall be produced before the said Court. In the event of their statements being recorded, the Court will send copies of the same to this Court before the next date of hearing along with his report:

- i) regarding genuineness and voluntary nature of the compromise;*
- ii) whether all the accused/petitioners are appearing before the Court or are on bail; and*
- iii) whether any other proceeding is pending against the accused/petitioners.*

Adjourned to 07.05.2021."

Pursuant to the aforesaid order, report from Additional District & Sessions Judge, Faridkot, has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

"1. The compromise effected by the complainant party with the accused persons is genuine and voluntary in nature.

2. Accused Sukhdev Singh @ Kikkar Singh and Jaspal Singh are on bail and are appearing in the Court, but accused Arshdeep Singh alias Seepa and Lovepreet Singh @ Love have not been arrested by the police.

3. As per statement of accused Jaspal Singh, two other cases bearing FIR No. 283 of 2020, Police Station Faridkot, under Sections 384 IPC and 25 Arms Act and FIR No. 174 of 2019, Police Station Jaitu, under Sections 307 IPC and 25 Arms Act, are pending against him, whereas as per statements of remaining accused, no case/proceedings are pending against them."

Mr. Ramandeep Singh, Advocate, appears for respondent Nos. 2 to 4 and admits the fact of parties having compromised.

However, learned State counsel submits that though as per the report, the parties have compromised, but the fact remains that offence punishable under Section 3 (1) (x) of SC/ST Act 1989 is non compoundable.

In response thereto, learned counsel for the petitioners relies upon the judgment passed by the Supreme Court in ***Criminal Appeal No.1489 of 2012, titled as 'Ramgopal and another vs. The State of Madhya Pradesh'***.

The relevant portion of which reads as under;-

“11. True it is that offences which are ‘non-compoundable’ cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as non compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.”

Keeping in view the law laid down by Supreme Court and the fact that parties have compromised, present petition is allowed. FIR No. 0045 dated 27.04.2020 registered under Sections 323/34 IPC and Sections 3 (1) (x) of SC/ST Act, 1989 at Police Station Sadar Faridkot and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

24.08.2022

Ajay Goswami

*Whether speaking/reasoned
Whether reportable*

**(PANKAJ JAIN)
JUDGE**

*Yes/No
Yes/No*